HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.8019 of 2007

Between:

T. Srinivas …Petitioner

AND

The Inspector General of Police, Warangal Range,
Warangal and two others. ...Respondents

: O R D E R :

Counsel for the petitioner : Sri S. Satyam Reddy

24th April, 2007

Per G.S. Singhvi, C.J.

Whether the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') established under the Administrative Tribunals Act, 1985 (for short, 'the Act') can sit in appeal over the findings recorded by the inquiring authority/disciplinary authority and interfere with the punishment imposed on a delinquent employee is the question which arises for determination in this petition filed under Article 226 of the Constitution of India by Sri T. Srinivas for quashing order dated 24-12-2006 passed by the Tribunal in O.A.No.700 of 2005.

Before adverting to the factual matrix of the case and the arguments of the learned counsel, we deem it necessary to observe that the role of the Tribunals established under Section 4 of the Act is supplemental to the power exercised by the High Court under Article 226 of the Constitution. In **L. Chandra Kumar v. Union of India**[1], seven Judge Bench of the Supreme Court interpreted Articles 323-A and 323-B of the Constitution and held that Clause 2(d) and of Article 323-A and Clause 3(d) of Article 323-B and Section 28 of the Act are unconstitutional insofar as they exclude the jurisdiction of the High Courts and the Supreme Court under Article 226/227 and 32 of the Constitution. The Supreme Court further held that the Tribunals created under Article 323-A and Article 323-B of the Constitution may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution and their decisions will be subject to scrutiny before a Division Bench of the High Court, within whose jurisdiction the concerned Tribunal falls.

The High Court's power of judicial review of disciplinary action taken by the public authorities against delinquent employees has become subject matter of several judicial pronouncements. In **State of Orissa v. Bidyabhushan Mohapatra**[2], the Supreme Court considered whether the High Court can interfere with the order of punishment simply because finding recorded by the enquiry officer in

respect of some charges is found to be vitiated by an error of law and whether it can go into the sufficiency and adequacy of punishment. While reversing the order of Orissa High Court, which had allowed the writ petition filed by the respondent, their Lordships of the Supreme Court observed:

> "But the Court in a case in which an order of dismissal of a public servant is impugned is not concerned to decide whether the sentence imposed, provided it is justified by the rules, is appropriate having regard to the gravity of the misdemeanour established. The reasons which induce the punishing authority, if there has been an inquiry consistent with the prescribed rules, are not justiciable: nor is the penalty open to review by the Court. If the High Court is satisfied that if some but not all of the findings of the Tribunal were 'unassailable', the order of the Governor on whose powers by the rules no restrictions in determining the appropriate punishment are placed, was final, and the High Court had no jurisdiction to direct the Governor to review the penalty for as we have already observed the order of dismissal passed by a competent authority on a public servant, if the conditions of the constitutional protection have been complied with, is not justiciable. Therefore if the order may be supported on any finding as to substantial misdemeanour for which the punishment can lawfully be imposed, it is not for the Court to consider whether that ground alone would have weighed with the authority in dismissing the public servant. The Court has no jurisdiction if the findings of the inquiry officer or the Tribunal prima facie make out a case of misdemeanour, to direct the authority to reconsider that order because in respect of some of the findings but not all it appears that there had been violation of the rules of natural justice."

In **State of A.P. v. Sree Rama Rao**[3], the Supreme Court indirectly reiterated the proposition laid down in **Bidyabhushan Mohapatra** (supra) and held:

> "The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental inquiry against a public servant; it is concerned to determine whether

the inquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the inquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of inquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the inquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding under Article 226 of the Constitution."

In **State of Madras v. G. Sundaram**[4], the Constitution Bench of the Supreme Court laid down the following proposition:

"High Court, in the exercise of its jurisdiction under Article 226 of the Constitution, cannot sit in appeal over the findings of fact recorded by a competent Tribunal in a properly conducted departmental enquiry except when it be shown that the impugned findings were not supported by any evidence. It cannot consider adequacy of that evidence to sustain the charge."

In **State of A.P. v. C. Venkata Rao**[5], a three Judges Bench of the Supreme Court referred to the judgments of **Syed Yakoob v.**

K.S.Radhakrishnan and others[6], **Bidyabhushan Mohapatra** (supra) and **Niranjan Singh** (supra) and observed:

> "In considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court need not be applied. Even if that rule is not applied by a domestic tribunal in any inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal."
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> (Emphasis supplied)

In **B.C. Chaturvedi v. Union of India**[7], the Supreme Court, while considering the appellant's challenge to the order of punishment passed as a sequel to the departmental enquiry held against him, highlighted the limited scope of judicial review by making the following observations:

"Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to re-appreciate the evidence or the nature of punishment. The Court/Tribunal in its power of judicial review does not act as appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of that case."

In **Apparel Export Promotion Council v. A.K. Chopra**[8], the Supreme Court again considered the High Court's power to interfere with the disciplinary proceedings and held:

"It is a settled position that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case

an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to reappreciate the evidence and come to its own conclusion, on facts, being the sole fact-finding authorities. Once findings of fact, based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since the High Court does not sit as an appellate authority over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot, normally speaking, substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty.

Further, it is a well-settled principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the court, in exercise of the power of judicial review, is *not* concerned with the *correctness* of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision-making process.

Judicial review, not being an appeal from a decision, but a review of the manner in which the decision was arrived at, the court, while exercising the power of judicial review, must remain conscious of the fact that if the decision has been arrived at by the administrative authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the court cannot substitute its judgment for that of the administrative authority on a matter which fell

squarely within the sphere of jurisdiction of that authority."

If the proposition of law laid down in **L. Chandra Kumar's** case (supra) is read in conjunction with the guiding principles laid down by the Supreme Court in **State of Orissa v. Bidyabhushan Mohapatra** (supra) and other judgments, it becomes clear that the Tribunal's power of judicial review of the disciplinary action taken by the State and its instrumentalities is akin to the High Court's power under Article 226 of the Constitution and the limitations, which have been read implicit on the High Court's power of judicial review, are also applicable to the Tribunal.

The Facts:

While he was working as Sub-Inspector of Police, Police Station, Tiryani, Adilabad District, a departmental enquiry was instituted against the petitioner under the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 on the charge of having misused his official position in collecting Rs.6,500/- from the villagers of Burudagudem for showing favour to the persons who were arrayed as accused in Crime No.2/1995 registered under Sections 324, 504 and 366 read with Section 34 IPC. For the sake of reference, the charge levelled against the petitioner is reproduced below:

> "Misused his official position in collecting Rs.6500/- from the villagers of Bundagudem H/o. Gundala to show favour in Cr.No.2/95 under Sections 324, 504, 366 r/w. 34 of IPC Tiryani PS to release the accused persons from police custody."

Sub-Divisional Police Officer, Mancherial, who was appointed as enquiry officer, submitted report dated 3-12-2000 with the finding that the charge levelled against the petitioner has been proved. A copy of the report was forwarded to the petitioner to enable him to represent against the findings recorded by the enquiry officer. After considering representation dated 19-7-2001 submitted by the petitioner, Inspector

General of Police, Warangal Range, Warangal (respondent No.1.) passed order dated 28-8-2001 whereby he imposed penalty of compulsory retirement on the petitioner. The last paragraph of that order reads as under:

> "I have gone through the minutes of the enquiry report as well as connected records of the OE and the further representation of the delinquent officer SI Sri T. Srinivas. The evidence of the prosecution witnesses clearly reveals that the charged officer accepted bribe for favouring the accused persons in Cr. No.2/95 u/s. 324, 504, 366 r/w 34 IPC of Tiryani PS. There is adequate corroboration in this regard including the evidence of the middleman who collected the bribe amount and passed on to the SI. The action of the charged officer in later on registering a case against the middleman is only a defence tactics because the villagers had openly complained against the collection of bribe in "Praja Sadassu" before the registration of the said crime. Then the charged officer to save himself registered a case against the middleman. There is clear evidence that the charged officer released the accused whom he was keeping for 3 days in wrongful custody after he was approached by the middleman. This clearly proves that the bribe was paid to the SI. Based on this evidence, I hold the charged officer guilty of wrongful confinement of the accused and also guilty of accepting bribe through the middleman. Keeping in view the gravity of the offence, he is compulsorily retired from the service. The suspension period with effect from 12-6-95 to 5-4-96 is treated as 'Not Duty'."

The appeal and revision filed by the petitioner against the order of punishment were dismissed by Additional Director General of Police (Administration) and the State Government respectively vide orders dated 1-12-2001 and 11-9-2004.

The petitioner challenged the punishment of compulsory retirement in O.A.No.700 of 2005. He pleaded that the finding recorded by the enquiry officer, which constituted the foundation of the order of punishment was perverse because no evidence was produced by the department to prove that he had demanded and accepted money for releasing the accused persons. He further

pleaded that if the Sarpanch of the Gram Panchayat or anyone else had collected money in his name, the same could not be made basis for holding him guilty.

In the counter filed by Sri B.L. Meena, Deputy Inspector General of Police, Warangal Range, Warangal, it was averred that the petitioner had arrested three persons in connection with Crime No.2/1995 registered under Sections 324, 504 and 366 read with Section 34 IPC at P.S., Tiryani and released them from police custody after three days after collecting money through Hanumandla Mallaiah, Sarpanch of Tiryani Village. Sri Meena referred to the testimony of P.W. Nos.1, 4, 6 and 8 and averred that the statements of these witnesses were sufficient to prove the charge levelled against the petitioner.

The Tribunal held that the finding recorded by the enquiry officer was based on a correct appreciation of evidence and the petitioner was rightly punished because he was found guilty of the charge of collecting money for release of the three accused. The relevant portion of the Tribunal's order is extracted below:

> "From the perusal of the material available on record one can safely infer that there was a collection of money meant to give to the SI by the middle man. Only on technical grounds that most of the witnesses did not specifically say that the money was passed on to the SI the fact that three accused were released after keeping them 3 days in custody is a sufficient proof as found by the enquiry officer and disciplinary authority established the guilt of the applicant. In any case, in catena judgments of various courts including Supreme Court, the Tribunal or court are not appellate authorities who can sit over the judgment of the disciplinary authority and who can reassess the evidence adduced before the enquiry officer and the evidence available on record with the disciplinary authority. There is no case of violation of principles of natural justice and violation of statutory rules as the enquiry has been conducted in accordance with the rules and the applicant has been given adequate opportunity including an opportunity to make his representation after the enquiry report was supplied to him which was acknowledged by him. It is only after

examining his further representation in response to the communication of a copy of the enquiry officer's report, the impugned orders have been recorded by the appellate authority for rejecting his appeal."

Arguments:

Sri S. Satyam Reddy argued that the order of punishment is liable to be annulled because the finding of guilty recorded by the enquiry officer is based on no evidence. Sri Reddy submitted that the charge levelled against the petitioner was that he had collected Rs.6,500/- from the villagers for showing favour to the persons who were arrayed as accused in Crime No.2/1995, but no evidence was produced to prove the collection of money by him. Learned counsel further argued that the statements made by some witnesses that money was collected in the name of the petitioner could not be made basis for penalising him.

We have given serious thought to the arguments of the learned counsel, but have not felt impressed. Rather, we are convinced that the order impugned in the writ petition does not suffer from any jurisdictional infirmity or an error of law apparent on the face of the record warranting interference under Article 226 of the Constitution of India.

The parameters for exercise of the High Court's power to issue a writ of certiorari are well defined. Such writ, order or direction can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals or quasi-judicial authorities. A writ can also be issued where in exercise of jurisdiction conferred on it, the Court or the Tribunal or quasi-judicial authority acts illegally or improperly, i.e., it decides a question without giving an opportunity of hearing to the party affected by the order or where the procedure adopted by it is opposed to the principles of natural justice. However, it must be remembered that the jurisdiction of the High Court to issue a writ of certiorari is supervisory in nature and not appellate one. This necessarily means

that the finding of fact reached by the inferior Court, Tribunal, etc., as a result of the appreciation of evidence, cannot be reopened or questioned in writ proceedings except when the judgment, order or award suffers from an error of law apparent on the face of the record. An error of law is one which can be discovered on a bare reading of the judgment, order or award under challenge along with the documents which have been relied upon by the inferior Court, Tribunal or quasi-judicial authority. An error, the discovery of which is possible only after a detailed scrutiny of the evidence produced by the parties and lengthy debate at the bar cannot be regarded as an error of law for the purpose of a writ of certiorari. A finding of fact recorded by an inferior Court or Tribunal or quasi-judicial authority can be corrected only if it is shown that in recording the said finding, the Court etc., had erroneously admitted inadmissible evidence and the same has influenced the impugned finding. Similarly, a finding of fact based on no evidence would be regarded as error of law which can be corrected by issuing a writ of certiorari. However, sufficiency or adequacy of the evidence relied upon by the inferior Court or Tribunal or quasi-judicial authority cannot be gone into by the High Court while considering the prayer for issue of a writ of certiorari. Likewise, mere possibility of forming a different opinion on re-appreciation of evidence produced by the parties is not sufficient for issue of a writ of certiorari – **Syed Yakoob v. K.S. Radhakrishnan and others**[9], **Shaik Mahammad Umarsaheb v. Kadalaskar Hasham Karimsab and others**[10], **Jitendra Singh Rathore v. Baidyanath Ayurved Bhawan Ltd.**[11], **R.S. Saini v. State of Punjab and others**[12], **Mohd. Shahnawaz Akhtar and another v. I ADJ Varanasi & ors.**[13] and **Surya Dev Rai v. Ram Chander Rai**[14].

In the light of the above, it is to be seen whether the finding

recorded by the enquiry officer is perverse and, on that account, the order of punishment passed by respondent No.1 is liable to be quashed.

Although neither of the parties appears to have produced the evidence recorded by the enquiry officer, copy of the report submitted by him was produced before the Tribunal and also before this Court. The Tribunal made a reference to the enquiry report, which revealed the following:

i) On a complaint made by Pendram Maruti, Crime No.2/1995 was registered against Marsukolla Devari Lachu and nine others under Sections 324, 504 and 366 read with Section 34 IPC at P.S., Tiryani.

ii) The petitioner went to the village after about four days of Sankranti festival and arrested three persons namely, Pendram Maruti, Ade Samu and Marsukolla Ramu and took them to the police station where they were detained for three days.

iii) The remaining accused along with some villagers including women approached P.W.7 – Athram Bhum Rao and sought his help for releasing the accused. At the latter's instance, Rs.2,000/- to Rs.4,500/- were collected for being paid to the petitioner for release of the accused and ultimately the three detenus were released. After some time, the petitioner called the accused persons and sent them to the court along with Constables and the court ordered their release on bail.

The enquiry officer analysed the statements of P.Ws.1 to 9 produced by the department and held that the charge levelled against the petitioner is proved. This is evinced from paragraphs VI and VII of the enquiry report, which are reproduced below:

VI. Analysis and Assessment of Evidence:-

The delinquent Sri T. Srinivas, SI of Police, formerly of Tiryani PS now working as ZSI in Intelligence at Adilabad stands charged for his misusing official position in collecting Rs.6,500/- from the villagers of Burudagudem hamlet of Gundala Village to show favour in Cr.No.2/95 U/s.324, 504, 506 r/w.34 IPC of Tiryani PS and to release the accused persons from police custody, thereby he failed to maintain absolute integrity, discipline and devotion towards duty involving moral turpitude and exhibited conduct unbecoming of SI of Police and violated Rule 3 of APCS (Conduct) Rules, 1964.

During the course of Inquiry, 9 PWs were examined, recorded their statements and 9 documents were marked as exhibits on behalf of prosecution. The memorandum with annexure-I to IV, written statement of defence of the delinquent and entire O.E. records were examined in detail and the following are the views of Inquiring Authority.

It revealed that one Pendram Keshava Rao r/o.Burdaguda h/o. Gundala village was beaten up by the accused persons viz., 1) Marsukolla Devara Lachu 2) Pendram Maruthi 3) Kanaka Barik Rao 4) Ade Jalpathi 5) Marsukolla Lachu 6) Sedam Maruthi 7) Sedam Gangaram 8) Ade Samu 9) Marsukolla Chandu and 10) Pendram Maruthi @ Maru of same village on 15.01.1995 suspecting him to be a sorcerer as the only son of Gangaram died. On the complaint of injured/victim Sri Pendram Kesava Rao, the delinquent being SI of Tiryani PS registered a case in Cr.No.2/95 U/s.324, 504, 506 r/w.34 IPC on 17.01.1995 and took up investigation.

To substantiate the allegations against the charged officer Sri T. Srinivas, SI of Tiryani PS, the statements of prosecution witnesses viz., PW-1 Kotnaka Ramu, PW-4 Masukolla Chandu, PW-5 Pendru Maruthi, PW-6 Bollam Sathaiah and PW-8 Hanumandla Mallaiah be taken into consideration as they wholly corroborated with the prosecution story stating that on the complaint of Pendram Keshava Rao, a case was registered against Marsukolla Devara Lachu and 9 others. The SI went to village after 4 days of Sankranti festival, apprehended 3 persons viz., Pendram Maruthi, Ade Samu and Marsukolla Ramu and took them to PS and detained them in PS for 3 days. Remaining accused along with some villagers including women approached PW-7 Athram Bhum Rao to interfere in the issue and sought help Rs.2,000/- or Rs.4,500/- was collected in order to pay the same to SI to get release of three accused. The said 3 accused persons were later on released by the SI remaining 7 accused were also called by the SI to PS, but the SI released them subsequently. PW-8 Hanumandla Mallaiah further added that Pendram Maruthi and 5 others approached him also in this case as the SI Tiryani apprehended

3 accused persons and detained in the PS for 3 days and they stated that they gave Rs.2,000/- to Athram Bhum Rao, PW-7 in order to pay the same to SI Tiryani who agreed to accept remaining amount of Rs.4,500/- later on and requested to mediate with SI for release of the accused so he met SI Tiryani and the SI agreed to accept the same amount in lieu of releasing the accused from police custody. On one day at about 10 or 11 am he went to PS and found 3 persons in PS. PW-5 Pendru Maruthi gave Rs.4,500/- to SI Tiryani and got released the said 3 accused person from the PS. After some days, the SI again called the accused and sent to the court along with constables but they were released by the court on bail. The remaining PWs.2, 3 and 7 deposed that the delinquent SI Tiryani took 3 persons viz., Pendram Maruthi and Samu and Marsukolla Ramu to PS and detained in the PS for 3 days. When Athram Bhum Rao went to PS Tiryani, the said 3 persons were released by the SI. Remaining persons were also called by the SI and sent them to Court. PW-7 Bhum Rao during the cross examination by the delinquent he deposed that the SI Tiryani apprehended 3 persons and detained them in PS in sorcery case and when he went to PS Tiryani to meet SI, he saw 7 or 8 persons in the PS and they were remanded after securing the remaining accused persons. The said PWs also deposed that during Praja Sadassu held by coordinator Phillip and other local officers at Tiryani, they complained against the SI Tiryani causing injustice in this case. The Preliminary Enquiry Officer Sri P. Pramod Kumar formerly SDPO Kagaznagar (PW-9) who conducted preliminary enquiry against the delinquent Sri T. Srinivas SI of Tiryani PS had fully corroborated with Ex.P-9 in toto. When the delinquent cross-examined this officer he deposed that he has not submitted report under political pressure, but he probed into the allegations as per telephonic instructions of Superintendent of Police, Adilabad District.

The case in Cr.No.2/95 was registred by the delinquent SI Tiryani on 17-01-1995, he brought three accused from the village after 3 or 4 days of registering case, but he remanded three accused persons on 29.01.1995, thus it is crystal clear that he did not initiate follow up action immediately i.e. producing them before the court for judicial custody which points out his ulterior motive in initiating immediate action. The contention of the delinquent is that none have spoke against him is totally far from truth as the said evidence is adduced during the Inquiry is quite vouch safe to prove the allegations against him.

VII. FINDINGS:

On the basis of documentary and oral evidence adduced in the

case before the Inquiring Authority and in view of the reasons given above, I hold that the following charge is PROVED against Sri T. Srinivas, SI of Police, formerly of Tiryani PS now working as ZSI, Intelligence at Adilabad for his "misusing official position in collecting Rs.6,500/- from the villagers of Burudagudam h/o. Gundala village to show favour in Cr.No.2/95 U/s.324, 504, 506 r/w.34 IPC of Tiryani PS and to release the accused persons from police custody, thereby he failed to maintain absolute integrity, discipline and devotion towards duty involving moral turpitude and exhibited conduct unbecoming of SI of Police and violated Rule 3 of APCS (Conduct) Rules, 1964.

In the context of the finding recorded by the enquiry officer that the accused persons were detained in custody for three days and were released after their relatives could arrange money for being paid to the petitioner, we enquired from Shri Satyam Reddy as to why his client had kept the accused at the police station and why he did not produce them before the jurisdictional Magistrate. In reply, Sri Reddy emphatically submitted that all the accused had, in fact, been produced before the concerned Magistrate. However, he could not produce any document in support of this assertion. It is, therefore, reasonable to take the view that the theory of production of the accused before the jurisdictional Magistrate is an afterthought and is liable to be discarded.

The statements of the witnesses, who appeared before the enquiry officer clearly show that an amount of Rs.6,500/- was collected and paid to the petitioner for release of the accused persons. Therefore, the mere fact that the charge framed against the petitioner does not specifically make a mention of the collection of money on his behalf is not sufficient to draw a negative inference in favour of the petitioner or for holding that the finding recorded by the enquiry officer is perverse. In our opinion, the allegation levelled against the petitioner that he misused his official position in collecting Rs.6,500/- from the villagers for releasing the accused persons has rightly been treated as proved because the money has, in fact, been collected by

his agents and absence of direct evidence regarding collecting of money by himself is not sufficient to absolve him of the charge.

If the evidence is scrutinised in the backdrop of the fact that the petitioner had detained three persons in the police station and released them after three days, any person of reasonable prudence can draw an inference that the release was ordered after the money had been collected by the agents of the petitioner.

In view of the above discussion, we hold that the Tribunal did not commit any error by refusing to interfere with the punishment imposed on the petitioner.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.10299 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, C.J.

24th April, 2007.

C.V.NAGARJUNA REDDY, J.

ARS

Note:
Registry to mark L.R. copy.
(By order)
svs

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[1] AIR 1997 SC 1125
[2] AIR 1963 SC 779
[3] AIR 1963 SC 1723
[4] AIR 1965 SC 1103
[5] AIR 1975 SC 2151
[6] AIR 1964 SC 477
[7] (1995) 6 SCC 749
[8] (1999) 1 SCC 759
[9] AIR 1964 SC 477
[10] AIR 1970 SC 61
[11] (1984) 3 SCC 5

[12] JT 1999 (6) SC 507

[13] JT 2002(8) SC 69

[14] (2003) 6 SCC 675